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Attorneys for Defendants
USA Cycling, Inc. and Linda Buffetti

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CORNEALIUS LOPES,

Plaintiff,

vs.

FREEMONT FREEWHEELER, et al.,

Defendants.

Case No.: C 07-6213 PJH

**[PROPOSED] ORDER GRANTING
DEFENDANTS USA CYCLING, INC.'S
AND LINDA BUFFETTI'S MOTION
TO DISMISS THE COMPLAINT
PURSUANT TO FRCP RULE 12(b)(5)(6)**

Date: June 25, 2008

Time: 9:00 a.m.

Courtroom: 3

Hon. Phyllis J. Hamilton

Complaint Filed: November 2, 2007

Defendants USA CYCLING, INC's and LINDA BUFFETTI'S Motion to Dismiss this action as to them came on regularly for hearing on Wednesday, June 25, 2008 in the above-entitled court. The Honorable Phyllis J. Hamilton presiding. Defendants USA Cycling, Inc. and Linda Buffetti were represented by their attorney David Ian Dalby of Hinshaw & Culbertson LLP. Plaintiff Cornealius Lopes represented himself.

After considering the papers in support of and opposing defendants' motion and those matters of which defendants requested judicial notice and the oral argument at the

1 hearing, and Good Cause appearing, defendants' motion to dismiss is granted. Plaintiff's
2 summons and complaint were never properly or timely served on USA Cycling, Inc. The
3 only count alleged against USA Cycling, Inc., Count Eight, is barred by the applicable
4 statute of limitations and fails to state facts upon which relief can be granted.

5 As to Linda Buffetti, Count Two of the complaint fails to state facts upon which
6 relief can be granted and Count Eighteen is barred by the applicable statute of limitations
7 and fails to state facts upon which relief can be granted.

8 Accordingly, plaintiff's complaint is dismissed as to defendants USA Cycling, Inc.
9 and Linda Buffetti.

10 DATED: June ____, 2008

11 _____
Phyllis J. Hamilton
United States District Judge